

**53-6-101. Short title.**

This chapter is known as the "Peace Officer Standards and Training Act."

Enacted by Chapter 234, 1993 General Session

**53-6-102. Definitions.**

As used in this chapter:

- (1) "Addiction" means the unlawful or habitual use of alcohol or a controlled substance which endangers public health and safety.
- (2) "Certified academy" means a peace officer training institution certified in accordance with the standards developed under Section 53-6-105.
- (3) "Council" means the Peace Officer Standards and Training Council created in Section 53-6-106.
- (4) "Conviction" means an adjudication of guilt regarding criminal conduct, including:
  - (a) a finding of guilt by a court or a jury;
  - (b) a guilty plea;
  - (c) a plea of nolo contendere;
  - (d) a plea which is held in abeyance pending the successful completion of:
    - (i) a probationary period; or
    - (ii) a diversion agreement; or
  - (e) a conviction which has been expunged or dismissed.
- (5) "Director" means the director of the Peace Officer Standards and Training Division appointed under Section 53-6-104.
- (6) "Dispatcher" means an employee of a public safety agency of the state or any of its political subdivisions and whose primary duties are to:
  - (a) (i) receive calls for one or a combination of, emergency police, fire, and medical services, and to dispatch the appropriate personnel and equipment in response to the calls; and
  - (ii) in response to emergency calls, make urgent decisions affecting the life, health, and welfare of the public and public safety employees; or
  - (b) supervise dispatchers or direct a dispatch communication center.
- (7) "Division" means the Peace Officer Standards and Training Division created in Section 53-6-103.
- (8) "POST" means the division.

Amended by Chapter 313, 2010 General Session

**53-6-103. Peace Officer Standards and Training Division -- Creation -- Administration -- Duties.**

- (1) There is created within the department the Peace Officer Standards and Training Division.
- (2) The division shall be administered by a director acting under the supervision and control of the commissioner.
- (3) The division shall promote and ensure the safety and welfare of the citizens of this state in their respective communities and provide for efficient and professional

law enforcement by establishing minimum standards and training for peace officers and dispatchers throughout the state.

Amended by Chapter 134, 1995 General Session

**53-6-104. Appointment of director of division -- Qualifications -- Appointment of employees -- Term of office -- Compensation.**

(1) The commissioner, upon recommendation of the council and with the approval of the governor, shall appoint a director of the division.

(2) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(3) The director shall be a full-time officer of the state.

(4) The director may appoint deputies, consultants, clerks, and other employees from eligibility lists authorized by the Department of Human Resource Management.

(5) The director may be removed from his position at the will of the commissioner.

(6) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 139, 2006 General Session

**53-6-105. Duties of director -- Powers -- Rulemaking.**

(1) The director, with the advice of the council, shall:

(a) prescribe standards for the certification of a peace officer training academy, certify an academy that meets the prescribed standards, and prescribe standards for revocation of certification for cause;

(b) prescribe minimum qualifications for certification of peace officers appointed or elected to enforce the laws of this state and its subdivisions and prescribe standards for revocation of certification for cause;

(c) establish minimum requirements for the certification of training instructors and establish standards for revocation of certification;

(d) provide for the issuance of appropriate certificates to those peace officers completing the basic training programs offered by a certified academy or those persons who pass a certification examination as provided for in this chapter;

(e) consult and cooperate with certified academy administrators and instructors for the continued development and improvement of the basic training programs provided by the certified academy and for the further development and implementation of advanced in-service training programs;

(f) consult and cooperate with state institutions of higher education to develop specialized courses of study for peace officers in the areas of criminal justice, police administration, criminology, social sciences, and other related disciplines;

(g) consult and cooperate with other departments, agencies, and local governments concerned with peace officer training;

(h) perform any other acts necessary to develop peace officer training programs within the state;

- (i) report to the council at regular meetings of the council and when the council requires;
  - (j) recommend peace officer standards and training requirements to the commissioner, governor, and the Legislature; and
  - (k) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall, with the advice of the council, make rules necessary to administer this chapter.
- (2) With the permission of the commissioner, the director may execute contracts on behalf of the division with criminal justice agencies to provide training for employees of those agencies if:
- (a) the employees or the employing agency pay a registration fee equivalent to the cost of the training; and
  - (b) the contract does not reduce the effectiveness of the division in its primary responsibility of providing training for peace officers of the state.
- (3) The director may:
- (a) revoke certification of a certified academy for cause; and
  - (b) make training aids and materials available to local law enforcement agencies.
- (4) The director shall, with the advice of the council, make rules:
- (a) establishing minimum requirements for the certification of dispatcher training instructors in a certified academy or interagency program and standards for revocation of this certification;
  - (b) establishing approved curriculum and a basic schedule for the basic dispatcher training course and the content of the dispatcher certification examination;
  - (c) providing for the issuance of appropriate certificates to a person who completes the basic dispatcher course or who passes a dispatcher certification examination as provided for in this chapter;
  - (d) establishing approved courses for certified dispatchers' annual training; and
  - (e) establishing a reinstatement procedure for a certified dispatcher who has not obtained the required annual training hours.

Amended by Chapter 313, 2010 General Session

**53-6-106. Creation of Peace Officer Standards and Training Council -- Purpose -- Membership -- Quorum -- Meetings -- Compensation.**

- (1) There is created the Peace Officer Standards and Training Council.
- (2) The council shall serve as an advisory board to the director of the division on matters relating to peace officer and dispatcher standards and training.
- (3) The council includes:
  - (a) the attorney general or a designated representative;
  - (b) the superintendent of the highway patrol or a designated representative;
  - (c) the executive director of the Department of Corrections or a designated representative; and
  - (d) 14 additional members appointed by the governor having qualifications, experience, or education in the field of law enforcement as follows:
    - (i) one incumbent mayor;

- (ii) one incumbent county commissioner;
  - (iii) three incumbent sheriffs, one of whom is a representative of the Utah Sheriffs Association, one of whom is from a county having a population of 100,000 or more, and one of whom is from a county having a population of less than 100,000;
  - (iv) three incumbent police chiefs, one of whom is a representative of the Utah Chiefs of Police Association, one of whom is from a city of the first or second class, and one of whom is from a city of the third, fourth, or fifth class or town;
  - (v) a representative of the Utah Peace Officers Association;
  - (vi) an educator in the field of public administration, criminal justice, or a related area; and
  - (vii) four persons selected at large by the governor.
- (4) (a) Except as required by Subsection (4)(b), the 14 members of the council shall be appointed by the governor for four-year terms.
- (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.
- (c) A member may be reappointed for additional terms.
- (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor from the same category in which the vacancy occurs.
- (5) A member of the council ceases to be a member:
- (a) immediately upon the termination of the member's holding the office or employment that was the basis for eligibility to membership on the council; or
  - (b) upon two unexcused absences in one year from regularly scheduled council meetings.
- (6) The council shall select a chair and vice chair from among its members.
- (7) Ten members of the advisory council constitute a quorum.
- (8) (a) Meetings may be called by the chair, the commissioner, or the director and shall be called by the chair upon the written request of nine members.
- (b) Meetings shall be held at the times and places determined by the director.
- (9) The council shall meet at least two times per year.
- (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (11) Membership on the council does not disqualify any member from holding any other public office or employment.

Amended by Chapter 108, 2012 General Session  
Amended by Chapter 296, 2012 General Session

**53-6-107. General duties of council.**

- (1) The council shall:

- (a) advise the director regarding:
    - (i) the approval, certification, or revocation of certification of any certified academy established in the state;
    - (ii) the refusal, suspension, or revocation of certification of a peace officer;
    - (iii) minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy;
    - (iv) minimum qualifications for instructors at a certified academy;
    - (v) the minimum basic training requirements that peace officers shall complete before receiving certification;
    - (vi) the minimum basic training requirements that dispatchers shall complete before receiving certification; and
    - (vii) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications;
  - (b) recommend that studies, surveys, or reports, or all of them be made by the director concerning the implementation of the objectives and purposes of this chapter;
  - (c) make recommendations and reports to the commissioner and governor from time to time; and
  - (d) perform other acts as necessary to carry out the duties of the council in this chapter.
- (2) The council may approve special function officers for membership in the Public Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

Amended by Chapter 250, 2002 General Session

**53-6-108. Donations, contributions, grants, gifts, bequests, devises, or endowments -- Authority to accept -- Disposition.**

- (1) The division may accept any donations, contributions, grants, gifts, bequests, devises, or endowments of money or property, which shall be the property of the state.
- (2) (a) If the donor directs that the money or property be used in a specified manner, then the division shall use it in accordance with these directions and state law.
- (b) All money and the proceeds from donated property not disposed of under Subsection (2)(a) shall be deposited in the General Fund as restricted revenue for the division.

Amended by Chapter 324, 2010 General Session

**53-6-201. Short title.**

This part is known as the "Peace Officer Training and Certification Act."

Enacted by Chapter 234, 1993 General Session

**53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.**

- (1) (a) The director shall:

- (i) (A) suggest and prepare subject material; and
- (B) schedule instructors for basic training courses; or
- (ii) review the material and instructor choices submitted by a certified academy.
- (b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director.

(4) (a) All peace officers must satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

Amended by Chapter 313, 2010 General Session

**53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.**

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

- (a) be a United States citizen;
- (b) be at least 21 years old at the time of certification as a special function officer or correctional officer;
- (c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;
- (d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;
- (e) have demonstrated good moral character, as determined by a background investigation; and
- (f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures,

may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Amended by Chapter 115, 2013 General Session

Amended by Chapter 451, 2013 General Session

**53-6-204. Time of application for admission to training program.**

At the time a person is employed or appointed as a peace officer, the chief executive officer of the agency employing or appointing shall submit to a certified academy an application together with the required background information required under Section 53-6-203.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-205. Completion of training course required -- Persons affected.**

(1) (a) Except as provided in Subsection (2), before a person may be certified as a peace officer in Utah the person shall:

- (i) successfully complete the basic training course at a certified academy;
- (ii) pass the certification examination; and
- (iii) pass a physical fitness test.

(b) A person may not exercise peace officer authority until certified.

(2) Subsection (1) applies only to persons not previously certified and who receive their first employment appointment or election as a peace officer in Utah on or after January 1, 1985.

Amended by Chapter 58, 2011 General Session

**53-6-206. Waiver of training course requirement.**

(1) The division may waive the required basic peace officer training course and certify an applicant who:

(a) provides proof that the applicant meets the requirements under Section 53-6-203 relating to qualifications for admission to the training course;

(b) provides proof that the applicant has completed a basic peace officer training program that the division determines is equivalent to the course required for certification under this part;

- (c) passes the certification examination;
- (d) passes a physical fitness test; and
- (e) provides proof that within the previous four years the applicant either:
  - (i) completed the basic peace officer training program for which the applicant is seeking credit; or

- (ii) was actively engaged in performing the duties of a peace officer.

- (2) A waiver applicant may not exercise peace officer authority until all waiver process requirements have been met and the applicant has been certified.

- (3) If an applicant fails the examination under Subsection (1)(c), the division may not waive the required basic peace officer training course and the applicant shall comply with all of the requirements in Subsection 53-6-205(1) to be certified as a peace officer in Utah.

Amended by Chapter 296, 2012 General Session

**53-6-207. Municipalities may set higher minimum standards.**

The minimum standards in this part concerning peace officer qualifications and training do not preclude counties, cities, or towns from establishing standards higher than the minimum standards contained in this part.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-208. Inactive certificates -- Lapse of certificate -- Reinstatement.**

- (1) (a) The certificate of a peace officer who has not been actively engaged in performing the duties as a certified and sworn peace officer for 18 consecutive months or more, but less than four consecutive years, is designated "inactive."

- (b) A peace officer whose certificate is inactive shall pass the certification examination and a physical fitness test before the certificate may be reissued or reinstated.

- (2) (a) The certificate of a peace officer who has not been actively engaged in performing the duties as a certified and sworn peace officer for four continuous years or more is designated as "lapsed."

- (b) A peace officer whose certificate is lapsed shall pass the basic training course at a certified academy, the certification examination, and a physical fitness test before the certificate may be reissued or reinstated.

Amended by Chapter 246, 2014 General Session

**53-6-209. Termination of employment -- Change of status form.**

- (1) When a peace officer's employment terminates, the employing agency shall submit a change of status form noting the termination of the peace officer to the division.

- (2) The change of status form shall:

- (a) be completed and submitted within seven days of the peace officer's termination date;

- (b) identify the circumstances of the peace officer's status change by indicating



that the peace officer has resigned, retired, terminated, transferred, deceased, or that the peace officer's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a peace officer is liable to the division for any damages that may be sustained by the failure to make the notification.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-210. Investigations and certification hearings -- Powers of division -- Violation.**

(1) For investigations by the division and for certification hearings or other testimony before the council, the division may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information, whether filed or kept in original form, or electronically stored or recorded.

(2) A person who willfully disobeys a properly served subpoena issued by the division is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.**

(1) The council has authority to suspend or revoke the certification of a peace officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct which is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on *Garrity v. New Jersey*, 385 U.S. 493 (1967);

(f) engages in sexual conduct while on duty; or

(g) is certified as a law enforcement officer, as defined in Section 53-13-103, and is unable to possess a firearm under state or federal law.

(2) The council may not suspend or revoke the certification of a peace officer for a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by

providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall review the findings of fact and conclusions of law and the information concerning the peace officer provided by the officer's employing agency and determine whether to suspend or revoke the officer's certification.

(b) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:

- (i) has a personal bias for or against the officer;
- (ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or
- (iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(7) The council's suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Amended by Chapter 115, 2013 General Session  
Amended by Chapter 269, 2013 General Session

**53-6-211.5. Voluntary relinquishment of peace officer certification.**

(1) A peace officer may voluntarily relinquish the peace officer's certification to the division at any time when a disciplinary issue regarding the peace officer has been referred to the division.

(2) (a) A peace officer who voluntarily relinquishes certification under this section may not subsequently be certified as a peace officer in this state.

(b) This section does not apply to a peace officer whose certification has become inactive or has lapsed as provided in Section 53-6-208.

Amended by Chapter 246, 2014 General Session

**53-6-212. Responsibility for training -- Certification.**

(1) The division is not responsible for providing basic or in-service training for peace officers defined and designated in Sections 53-13-104 through 53-13-106 except for approval of the instructors and content of training where required by this chapter, Title 53, Chapter 13, Peace Officer Classifications, or division rules.

(2) Where this chapter or Title 53, Chapter 13, Peace Officer Classifications, requires an agency head to certify that a member has completed required training, the division shall rely on the certification, as provided, to be accurate.

Amended by Chapter 92, 1999 General Session

**53-6-213. Appropriations from reparation fund.**

(1) The Legislature shall appropriate from the fund established in Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime, to the division, funds for training of law enforcement officers in the state.

(2) The department shall make an annual report to the Legislature, which includes the amount received during the previous fiscal year.

Amended by Chapter 131, 2011 General Session

**53-6-301. Title.**

This part is known as the "Dispatcher Training and Certification Act."

Enacted by Chapter 134, 1995 General Session

**53-6-302. Applicants for certification examination -- Requirements.**

(1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:

(a) be a United States citizen;

(b) be 18 years of age or older at the time of employment as a dispatcher;

(c) be a high school graduate or have a G.E.D. equivalent;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation; and

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher.

(2) (a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

Amended by Chapter 258, 2011 General Session

**53-6-303. Completion of certification examination required -- Persons affected.**

(1) Except as provided in Subsection (2), a person must successfully complete the basic dispatcher training course and pass the certification examination according to the requirements of this part before that person can be a certified dispatcher.

(2) Subsection (1) applies only to persons not previously certified and who receive their first employment as a dispatcher in this state on or after July 1, 1996.

Enacted by Chapter 134, 1995 General Session

**53-6-304. Waiver of training course requirement.**

(1) The director may waive the required basic dispatcher training course and certify an applicant who:

(a) provides evidence that the applicant meets the requirements under Section 53-6-302, relating to qualifications for admission to the training course;

(b) provides evidence that the applicant has completed a basic dispatcher

training program that, in the director's judgment, is equivalent to the course required for certification under this part; and

(c) passes the certification examination.

(2) An applicant who fails the examination under Subsection (1)(c) shall complete the basic dispatcher training course and pass the certification examination to become certified.

Amended by Chapter 258, 2011 General Session

**53-6-305. Local governments -- Option -- Higher minimum standards.**

(1) Participation in dispatcher training and certification under this part is at the option of the legislative body of each county or municipality that employs dispatchers.

(2) The minimum standards in this part concerning dispatcher qualifications and training do not preclude counties or municipalities from establishing standards higher than the minimum standards contained in this part.

Enacted by Chapter 134, 1995 General Session

**53-6-306. Inactive and lapsed certificates -- Reissuance or reinstatement -- Annual training requirement.**

(1) (a) The certificate of a dispatcher who has not been actively engaged in performing the duties of a dispatcher for 18 consecutive months or more is designated "inactive."

(b) A dispatcher whose certificate is inactive shall pass the certification examination before the certificate may be reissued or reinstated.

(2) (a) The certificate of a dispatcher who has not been actively engaged in performing the duties of a dispatcher for four continuous years shall be designated "lapsed."

(b) A dispatcher whose certificate has lapsed shall successfully complete the basic training course and pass the certification examination before the certificate may be reissued or reinstated.

(3) (a) A certified dispatcher shall complete annual training approved by the director of 20 hours or more.

(b) If a dispatcher fails to satisfactorily complete the annual training, the dispatcher's certificate shall be suspended until any deficiency in the annual training is remedied.

Amended by Chapter 258, 2011 General Session

**53-6-307. Termination of employment -- Change of status form.**

(1) When a certified dispatcher's employment terminates or a certified dispatcher's status changes, the employing agency shall submit a change of status form noting the termination of the certified dispatcher to the division.

(2) The change of status form shall:

(a) be completed and submitted within 30 days of the certified dispatcher's termination date;

(b) identify the circumstances of the certified dispatcher's status change by indicating that the certified dispatcher has resigned, retired, terminated, transferred, deceased, or that the certified dispatcher's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a certified dispatcher is liable to the division for any damages that may be sustained by the failure to make the notification.

Enacted by Chapter 134, 1995 General Session

**53-6-308. Investigations and certification hearings -- Powers of division -- Violation.**

(1) For investigations by the division and for certification hearings or other testimony before the council, the division may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information, whether filed or kept in original form, or electronically stored or recorded.

(2) A person who willfully disobeys a properly served subpoena issued by the division is guilty of a class B misdemeanor.

Enacted by Chapter 134, 1995 General Session

**53-6-309. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.**

(1) The council has authority to suspend or revoke the certification of a dispatcher, if the dispatcher:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the dispatcher's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct that is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on *Garrity v. New Jersey*, 385 U.S. 493 (1967); or

(f) engages in sexual conduct while on duty.

(2) The council may not suspend or revoke the certification of a dispatcher for a violation of the employing agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating dispatchers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the dispatcher involved notice and an opportunity for a hearing before an

administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in violation of Subsection (1), the division shall present the findings and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the agency that employs the involved dispatcher of the investigation and shall provide any information or comments concerning the dispatcher received from that agency regarding the dispatcher to the council before a dispatcher's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall review the findings of fact and conclusions of law and the information concerning the dispatcher provided by the dispatcher's employing agency and determine whether to suspend or revoke the dispatcher's certification.

(b) A council member shall recuse himself or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the dispatcher;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same agency as the dispatcher whose case is before the council.

(5) (a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a dispatcher by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(6) An agency that is made aware of an allegation against a dispatcher employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

Repealed and Re-enacted by Chapter 258, 2011 General Session

### **53-6-310. Responsibility for training -- Certification.**

(1) The division is not responsible for providing basic or in-service training for certified dispatchers except for approval of the instructors and content of training where

required by this chapter or division rules.

(2) Where this chapter requires an agency head to certify that a member has completed required training, the division shall rely on the certification, as provided, to be accurate.

Enacted by Chapter 134, 1995 General Session

**53-6-311. Voluntary relinquishment of dispatcher certification.**

(1) (a) A dispatcher may voluntarily relinquish the dispatcher's certification to the division at any time when a disciplinary issue regarding the dispatcher has been referred to the division.

(b) A dispatcher who voluntarily relinquishes certification under this Subsection (1) may not subsequently be certified as a dispatcher in Utah.

(2) Subsection (1) does not apply to a dispatcher whose certification has become inactive as provided in Section 53-6-306.

Enacted by Chapter 258, 2011 General Session